

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
KEVIN DOWNS,

Plaintiff,

- against -

INTERACTIVE ONE, LLC,

Defendant.  
-----X

19 Civ. 8571 (VM)

**CONDITIONAL**  
**ORDER OF DISCONTINUANCE**  
**WITHOUT PREJUDICE**

**VICTOR MARRERO, United States District Judge.**

Counsel for defendants, having notified the Court, by letter dated December 5, 2019, a copy of which is attached, that the parties have reached an agreement in principle to resolve this action without further litigation, and do not object to the issuance of this Order, it is hereby

**ORDERED,** that this action be conditionally discontinued without prejudice and without costs; provided, however, that within thirty (30) days of the date of this Order, the parties may submit to the Court their own Stipulation of Dismissal for the Court to So Order. Otherwise, within such time plaintiff may apply by letter for restoration of the action to the active calendar of this Court in the event by the deadline indicated the settlement is not consummated. Upon such notification, the defendant shall continue to be subject to the Court's jurisdiction, the Court shall promptly reinstate the action and any pending motions to its active docket and the parties shall be directed to appear before the Court, without the necessity of additional process, on a date within ten

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days of the plaintiff's application for reinstatement, to schedule remaining pre-trial proceedings and/or dispositive motions, as appropriate. This Order shall be deemed a final discontinuance of the action with prejudice in the event that plaintiff has not requested restoration of the case to the active calendar within such period of time.

Any further conferences with the Court are canceled but shall be rescheduled as set forth above in the event plaintiff notifies the Court that the parties' settlement was not effectuated and that such conference is necessary to resume pretrial proceedings herein.

The Clerk of Court is directed to terminate any pending motions and to close this case.

**SO ORDERED.**

Dated: NEW YORK, NEW YORK  
05 December 2019



VICTOR MARRERO  
U.S.D.J.

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December 5, 2019

**VIA FAX (212) 805-6382**

Honorable Victor Marrero  
United States District Court Judge  
Southern District of New York  
500 Pearl Street, Suite 1040  
New York, New York 10007

Re: Kevin Downs v. Interactive One, LLC, 1:19-cv-08571

Dear Judge Marrero:

My law firm represents Defendant Interactive One, LLC in the above-referenced action. I write to advise the Court that the parties have reached a settlement in principle.

On October 30, 2019, Your Honor granted Defendant an extension of time to December 6, 2019 to answer or otherwise respond to the Complaint (Docket No. 7).

In view of the parties' settlement in principle, the parties respectfully request an additional 30-day extension of time on the deadline for Defendant's response to the Complaint (to January 6, 2020), to allow sufficient time for the parties to complete their settlement. Alternatively, the Court may prefer to close this action with the right to reopen if the settlement is not completed within 30 days.

This is the third request for an extension of time in this action. No other pending deadlines will be impacted by this request.

Respectfully submitted,

/s/ Andrew P. Zappia

Andrew P. Zappia

APZ:smf  
cc Richard Liebowitz, Esq. (via email)

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